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OCKET NO.: SAMS01-00077
Customer No. 23990

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of : SANDRO GREGORAT
Serial No. : 09/461,072
Filed : December 14, 1999
For : DATA SYNCHRONIZATION SYSTEM AND METHOD
OF OPERATION
Group No. : 2171
Examiner : C. Nguyen

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The undersigned hereby certifies that the following documents:

1. Appellant's Reply Brief Under 37 C.F.R. §1.193 (in triplicate); and
2. Postcard receipt

relating to the above application, were deposited as "First Class Mail" with the United States Postal Service, addressed to BOX AF, Commissioner for Patents, Washington, D.C. 20231, on February 14, 2003.

Date: Feb 14, 2003

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APPELLANT'S REPLY BRIEF UNDER 37 C.F.R. §1.193

This Appellant's Reply Brief Under 37 C.F.R. § 1.193 ("Reply Brief") is filed in response to the Examiner's Answer, which was filed in this Appeal on December 16, 2002. This Reply Brief is transmitted in triplicate.

Arguments in Response to the Examiner's Answer

Initially, the Appellant notes that the Examiner's arguments regarding *Bauer* are inconsistent. The Examiner first argues that the client and the server of *Bauer* represent the "bulk copy controller" and the "update controller" recited in Claims 2 and 10. (*Examiner's Answer, Page 3, First paragraph - Page 4, First paragraph*). The Examiner later argues that the client of *Bauer* represents both the "bulk copy controller" and the "update controller" recited in Claims 2 and 10. (*Examiner's Answer, Page 7, Last paragraph - Page 8, First paragraph*).

The Examiner asserts that the client and server of *Bauer* operate "substantially concurrently" as recited in the independent claims. In particular, the Examiner notes that the client and server may perform handshakes and communicate with one another "substantially concurrently." (*Examiner's Answer, Page 3, Last paragraph - Page 4, First paragraph*).

Even assuming that the Examiner's interpretation of *Bauer* is correct, it does not render the independent claims obvious because it fails to show that the actions actually recited in the claims occur "substantially concurrently." Take Claim 17 as an example. Claim 17 recites "copying a plurality of data records" and "detecting a change in a data record previously copied," where these steps are performed "substantially concurrently." The Examiner has simply argued that the client and server of *Bauer* might perform some actions "substantially concurrently." The Examiner has not shown that the client and server of *Bauer* perform the actions recited in the claims "substantially concurrently." In particular, the Examiner has not shown that the client and server in *Bauer* are capable of "copying a plurality of data records" and "detecting a change in a data record previously copied," where these steps are performed "substantially concurrently." The fact that the client and

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server of *Bauer* might perform handshakes and communicate at or near the same time does not render these claim elements obvious. As a result, the Examiner has failed to establish a *prima facie* case of obviousness.

For the foregoing reasons, the Appellant respectfully requests that the final rejection of Claims 2-8, 10-16, and 18-24 be withdrawn and that Claims 2-8, 10-16, and 18-24 be allowed.

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SUMMARY

For the reasons given above, the Appellants respectfully request reconsideration and allowance of the claims and that this patent application be passed to issue.

The Commissioner is hereby authorized to charge any additional fees connected with this communication or credit any overpayment to Davis Munck Deposit Account No. 50-0208.

Respectfully submitted,

DAVIS MUNCK, P.C.

Date: 14 Feb. 2003


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